



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 220919-0193]

RTID 0648-XD160

### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Closure of the Harpoon Category Fishery for 2023

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the Harpoon category fishery for large medium and giant (*i.e.*, measuring 73 inches (185 cm) curved fork length (CFL) or greater) Atlantic bluefin tuna (BFT) for the remainder of the 2023 fishing year. This closure applies to Atlantic Tunas Harpoon category permitted vessels.

**DATES:** Effective 11:30 p.m., local time, July 30, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Larry Redd, Jr.,

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**SUPPLEMENTARY INFORMATION:** Atlantic highly migratory species (HMS) fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation

of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements, such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

Under § 635.28(a)(1), NMFS files a closure action with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under a quota category is prohibited on or after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the relevant subsequent quota period, or until such date as specified.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The Harpoon category baseline quota is 59.2 mt. Effective July 21, 2023, NMFS transferred 10.8 mt from the Reserve category to the Harpoon category, resulting in an adjusted quota of 70.0 mt for the Harpoon category and 27.4 mt for the Reserve category (88 FR 48136, July 26, 2023). As described under § 635.27(a)(4), the Harpoon category quota is only available between June 1 and November 15 of each year.

### **Harpoon Category Closure**

To date, reported landings for the Harpoon category total approximately 68.5 mt. Based on these landings data, as well as average catch rates and anticipated fishing conditions, NMFS projects that the Harpoon category adjusted subquota of 70.0 mt will be reached shortly. Therefore, retaining, possessing, or landing large medium or giant (*i.e.*, measuring 73 inches (185 cm) CFL or greater) BFT by persons aboard vessels

permitted in the Atlantic tunas Harpoon category must cease at 11:30 p.m. local time on July 30, 2023. The Harpoon category BFT fishery will be closed for the remainder of the Harpoon category season, which ends November 15, 2023, and thus for the year. The Harpoon category will reopen automatically on June 1, 2024, for the 2024 fishing season. This action applies to Atlantic Tunas Harpoon category (commercial) permitted vessels, and is taken consistent with the regulations at § 635.28(a)(1).

### **Monitoring and Reporting**

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to implement actions in a timely manner such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer-reporting requirement, Harpoon category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing <https://www.hmspermits.noaa.gov>, using the HMS Catch Reporting app, or calling 888-872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may access <https://www.hmspermits.noaa.gov>, for updates on quota monitoring and inseason adjustments.

### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and an opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and the available quota for the category is projected to be reached shortly. Delaying this action could result in BFT landings exceeding the Harpoon category quota. Taking this action does not raise conservation and management concerns. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA finds that pursuant to 5 U.S.C. 553(d), there is also good cause to waive the 30-day delay in effective date.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 28, 2023.

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Jennifer M. Wallace,

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National Marine Fisheries Service.